

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

SARAH H. BLACK, DANIEL L. BLACK,
and JACOB L. BLACK,

Civil Action No.: 1:16-cv-01238

Plaintiffs,

-against-

**AFFIRMATION OF
DAVID A. BOYAR**

ANTHONY DAIN, CHERIE WRIGLEY, IRA
SALZMAN, LISA DIPONIO, GAYLE YOUNG,
PAMELA KERR, MELISSA COHENSON,
BRIAN A. RAPHAN, P.C., ESAUN G. PINTO,
and CPI INVESTGATIONS,

Defendants.

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DAVID A. BOYAR, an attorney admitted to practice in the State of New York,
affirms under penalty of perjury:

1. I am a member of the law firm of D'Amato & Lynch, LLP, attorneys for Defendants Melissa Cohenson, and Brian Raphan, P.C. (collectively, "Raphan Defendants") in this action. I have knowledge of the facts hereinafter stated.

2. This Affirmation is submitted in support of the Raphan Defendants' Motion to Dismiss Plaintiffs' Amended Complaint pursuant to Rules 12(b)(6) and 17(c) of the Federal Rules of Civil Procedure.

3. Attached hereto as Exhibit 1 is a copy of Plaintiff's Amended Complaint.

4. Attached hereto as Exhibit 2 is a copy of a December 11, 2012 Order issued in the Colorado Probate Proceeding referenced in Plaintiffs' Amended Complaint ("Colorado Probate Proceeding"), granting Bernard Black's ("Black") Application to serve as Joanne Black's ("Joanne") Conservator.

5. Attached hereto as Exhibit 3 is a copy of Black's Application in the Colorado Probate Proceeding to serve as Joanne's Guardian.

6. Attached hereto as Exhibit 4 is a copy of a Supplemental Guardian Ad Litem Report of Gayle Young ("Young") dated October 8, 2014 filed in the Colorado Probate Proceeding.

7. Attached hereto as Exhibit 5 is a copy of an October 27, 2014 Order issued in the Colorado Probate Proceeding dismissing Black's Guardianship Application ("October 27, 2014 Order".)

8. Attached hereto as Exhibit 6 is a copy of Black's Response dated November 24, 2015 to the October 27, 2014 Order.

9. Attached hereto as Exhibit 7 is a copy of Young's Reply to Black's Response to the October 27, 2014 Order.

10. Attached hereto as Exhibit 8 is a copy of a further Response by Black dated January 8, 2015 to the October 27, 2014 Order.

11. Attached hereto as Exhibit 9 is a copy of a February 19, 2015 Order issued in the Colorado Probate Proceeding directing the scheduling of a status conference.

12. Attached hereto as Exhibit 10 is a copy of March 30, 2015 Report by Young setting forth the issues that needed to be resolved by the Court in the Colorado Probate Proceeding.

13. Attached hereto as Exhibit 11 is a copy of a June 2, 2015 Report by Pamela Kerr, CPA, in the Colorado Probate Proceeding.

14. Attached hereto as Exhibit 12 is a copy (without exhibits) of a Motion filed by Young's counsel in the Colorado Probate Proceeding requesting that the Court consider entry of Civil Theft Findings against Black.

15. Attached hereto as Exhibit 13 is a copy of a September 28, 2015 Order issued by the Court in the Colorado Probate Proceeding.

16. Attached hereto as Exhibit 14 is a copy of a February 25, 2016 Order issued by the Court in the Colorado Probate Proceeding.

17. Attached hereto as Exhibit 15 is a copy of a March 17, 2016 Order issued by the Court in the Colorado Probate Proceeding.

Dated: New York, New York
July 25, 2016

AFFIRMED:

By: 
David A. Boyar